See folio 9332.

DEFENDANT'S EXHIBIT #41.—*Henry, re-cross 9470.*

(Copy) U. S. *vs.* Prince Line *et al*
Defts. Ex. No. 41 Id.

London
Paris
Hamburg
Melbourne
Sydney
Buenos Ayres

WILLIAM E. PECK & Co.
Incorporated
104 Pearl Street
(Hanover Square)
New York, June 30, 1914. 10506

Cable Address:
"Adorwhoop, New York"
Liebers, Western Union, A. I.
and A. B. C. codes used.

10507

Mr. Chas. C. Burlingham,
27 William St.,
New York City.

Dear Sir:—

As requested, I have looked into the question of Flour rates to various Brazilian ports and find that the records are available only to the beginning of 1911 and also that the dates which will appear hereinafter may not necessarily signify the exact dates on which rates were changed, but are the dates on which we obtained rates for the purpose of making a cif calculation on an inquiry received at that time. 10508

SANTOS:—Our records show a rate of 32 1/2¢ per bag quoted us on January 25th, 1911, 37 1/2¢ per bag quoted on February 14th, 1911, 40¢ per bag quoted on March 27th, 1911, 47 1/2¢ per bag on October 28th, 1912 and 52 1/2¢ on January 13th, 1913. On July 9th, 1913, we were quoted 42 1/2¢ on September 4th, 1913 37 1/2¢, November 25th,

10509 1913 35¢ and February 4th, 1914 30¢, which remains the rate up to the present date.

PERNAMBUCO:—Our records show the following quotations for Flour in bags. February 14th, 1911 37 1/2¢, April 15th, 1912 40¢, December 4th, 1912 47 1/2¢, January 8th, 1913 42 1/2¢. The present rate is 27 1/2¢, but our records do not show the exact date on which the reductions were made except that such reduction did take place in September 1913 and in Febraury 1914.

BAHIA:— On April 18th, 1912 we were quoted 40¢ per
10510 bag, on January 8th, 1913 42 1/2¢, on January 27th, 1914 30¢ and this remains the rate at present.

MACEIO:—On August 9th, 1913 we were quoted 37 1/2¢ per bag, on January 9th, 1914 30¢ per bag, on May 29th, 1914 27 1/2¢ per bag and this remains the rate up to the present date.

I trust that this information is what you require and regret that it is not possible to furnish it readily for dates previous to those above mentioned.

Yours very truly,

10511 (sgd) WM. C. WULP,
Secretary.

WCW:CF.

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DEFENDANT'S EXHIBIT #42.—*Henry, re-cross 9472.* 10513

LETTER OF COMMITTEE OF STEAMSHIP LINES ENGAGED IN FOREIGN TRADES

TO

THE COMMITTEE ON THE MERCHANT MARINE AND FISHERIES OF THE HOUSE OF REPRESENTATIVES IN REGARD TO SHIPPING CONFERENCES AND AGREEMENTS WHICH ARE THE 10514
SUBJECT OF INVESTIGATION UNDER HOUSE RESOLUTION No. 587.

March 3, 1913.

10515

NEW YORK, March 3, 1913.

TO THE HONORABLE THE COMMITTEE ON THE MERCHANT MARINE AND FISHERIES,
Washington, D. C.

GENTLEMEN:

The representatives of most of the steamship lines which maintain established services from the port of New York 10516
to foreign countries, including Porto Rico and the Philippines, have appointed the undersigned a Committee to act for them. We have carefully considered the evidence brought out at the public hearings, and have sought and obtained the views of the trade generally. While complete unanimity of opinion is not to be expected, yet we find substantial agreement on all matters of importance, and we have therefore prepared the following memorandum, which we beg leave to submit for your consideration, and we

10517 respectfully ask that it be printed and made a part of the record.

The subject of your inquiry is an unusually complex one, and there are marked differences in the conditions existing in the various groups forming the ocean-carrying trade from this country. The difficulty of the problem is increased by the fact that while the exports of all other countries are, for the most part, either manufactured articles or products of the soil, the immense development of our export trade within recent years has resulted in an enor-
10518 mous increase in exports of manufactured articles, without any material reduction in the export of products of our soil.

In order to move this traffic, amounting in money to nearly $4,200,000,000. per annum, there are four groups of tonnage, each of which presents special conditions and divergent features, the services within each group differing considerably among themselves. In discussing these groups separately it is impossible to apply the same rules to all, and if it were attempted to regulate one of these
10519 groups by legislation it would be found that the rules applicable to that group were inapplicable to others.

The various trades are grouped as follows:

GROUP I. The Trans-Atlantic trade covering all ports in Europe bordering on the Atlantic Ocean, the North Sea, the Baltic, the White Sea, the Mediterranean and the Black Sea, ports in Africa on the Mediterranean and ports in Asia on the Mediterranean and the Black Sea.

10520 GROUP II. The long-voyage trade, covering Africa, excepting Mediterranean ports, Asia, with the exclusion of the ports on the Mediterranean and the Black Sea, South America, East and West Coast, but excluding the most northern part of it; Australia and New Zealand.

GROUP III. The Caribbean trade, covering the West Indies, Central America, Mexico, Columbia, Venezuela and British, Dutch and French Guiana.

GROUP IV. The trade covered by tramp steamers transporting bulk articles all over the world. 10521

We will discuss these groups separately.

GROUP I. *Trans-Atlantic Trade.* This group unquestionably represents the best development of the steamship business that can be found in any part of the world. The combined passenger and cargo type of steamer employed by most of our Trans-Atlantic lines is superior in size and speed to any other type of steamship. The creation of 10522
this type of ship is the result of the development of the combined passenger and freight traffic between this country and Europe. The increasing passenger traffic not only of Americans visiting Europe, but of Europeans coming to this country, has enabled these most costly instruments of modern transportation to ply the Atlantic throughout the whole year. The steadily increasing immigration, together with the patronage of those who wish to revisit their homes abroad, furnishes a steady steerage traffic, which demands and receives the most painstaking attention of the lines. 10523
It is the very lifeblood of the business so far as these superior boats are concerned, without which their existence and further operation would become impossible. The testimony given before you shows that agreements exist among several of the Continental Lines, the Mediterranean Lines and some of the British companies, which apportion the westbound freight traffic. These are the result of years of fighting and have become absolutely necessary. The trade is insufficient to furnish the steamers engaged in the various services with full cargoes. The struggle for such
cargoes as were available had reduced the rates to such 10524
an abnormally low level that they had ceased to be of any value or attraction. The very high terminal charges on this side, varying for pier rent from $50,000 to $125,000 per annum for each line, the exacting demands made by the consignees who leave their goods on the wharf, using it as a warehouse, and the large claims which had to be paid annually, absorbed all the profit which otherwise might have been made. The trade was finally rescued from utter demoralization by the agreements mentioned, and we do not see how the trade could be conducted otherwise.

10525 In regard to the east-bound business the position is somewhat different and agreements among the Lines exist to a limited extent only. Shipments which consist of products of the soil must perforce be sent forward at a freight rate which will enable our shippers to compete with other producing countries. In other words, these freight rates are governed by the law of supply and demand, and an attempt to control the ocean rates on such commodities would, in our opinion, be contrary to all the natural laws of commerce, and would result in materially curtailing
10526 business, to the detriment not only of the steamship companies, but also of the farmer, who would be obliged to accept the price which the European consumer would be willing to pay after the deduction of an arbitrary freight rate. The ports of discharge are only the gateways through which the traffic moves; all the different groups of ports are more or less in competition with each other, and the forwarding cost either by rail or by water to the ultimate destination determines the freight rate which each port can secure.

As regards manufactured articles, the lines, in order to
10527 secure the business, are compelled to name freight rates which will permit American manufacturers to compete with European manufacturers in their home markets. The Steel Company, for instance, can only sell its products in Europe if the freight rate makes it possible for it to do so. It is absolutely in the interest of the Steamship Lines to fix a price for transportation which will develop and increase the American product, for an unreasonable rate of freight would curtail shipments and act automatically to the detriment and loss of the lines.

10528 GROUP II. *Long Voyage Trade.* Conditions in the long voyage trade differ materially, but it may be said generally that most of these services depend entirely on case oil and manufactured articles. At their inception these services had to carry large quantities of petroleum in cases at rates of freight which were fixed in competition with the tramp steamer carrying full cargoes. As the trade gradually developed, the various countries took an increasing quantity of manufactures and the rates of freight had to be fixed either on the basis of European rates, where our shippers

were competing with Europe, or on the basis of the tramp charter market, where large quantities of American specialties had to be cared for. 10529

The situation of this group is peculiar in many respects. For instance, in the African and Australasian trade no return cargoes are obtainable, while the same difficulty practically exists in connection with the services to Brazil and the River Plate. The voyage from the United States must therefore produce sufficient revenue to pay for a trip that must eventually be made in ballast, either by returning direct from the ports of discharge to the United States, or indirectly by way of Europe with a ballast voyage across the Atlantic. Each section of this group consists of a number of companies, which, after years of competition, have finally came together and are operating under a conference agreement or some other effective understanding. In the Australasian and Far Eastern trades, the voyage of each steamer occupies such a long time that it would be almost impossible for one ownership to undertake to provide an effective and satisfactory service, and this is an additional reason why several ownerships compose each line. The absence of passenger business in practically all the lines of this group creates an additional difficulty, but the services are maintained with efficient boats offering regular and frequent departures and fully up to all the requirements of the business. 10530 10531

GROUP III. *The Caribbean Trade.* The trade to the West Indies and neighboring ports has only been developed to its present degree of efficiency during recent years. This trade calls for an entirely different type of ship from that of the Trans-Atlantic or long-voyage trade. The steamers have to call at a large number of ports. The requirements of each port of call are limited. The size of the ships supplied is fully up to existing needs. The development of the banana trade homeward calls for vessels of a speed which the downward trade could not possibly support; yet this business is exceptionally well supplied with superior and most efficient steamers. 10532

The services composing Group III furnish largely foodstuffs to the ports at which the ships call. In respect of

10533 that class of traffic, they encounter very little competition on the part of any other producing country. With regard to manufactured articles the situation is different. There is very strong competition on the part of Canadian shippers who have the advantage of a very complete service which has been or is about to be subsidized by the Canadian Government. The rates on manufactured articles must therefore be made sufficiently attractive to enable American merchants to compete successfully for the latter class of trade, and it is to the interest of the steamship
10534 companies to aid them by meeting their needs and demands in relation to freight rates.

GROUP IV. *Tramp Service.* This group furnishes steamers for the shipment of bulk articles and the charter market controls this trade absolutely and entirely. The owner of a tramp steamer will exact such rates of freight as he can procure in competition with the markets of the whole world, and unless he can obtain what he considers satisfactory business, he will not undertake it.

Having thus referred to the special conditions applica-
10535 ble to each group, we will now discuss the arrangements existing among some of the lines composing groups I, II and III. Of course, by the very nature of the case there is no co-operation in group IV.

There is not the slightest foundation for the statement sometimes made that the steamship business of the world is under the domination and control of some central power or combination of interests, and that the various understandings and agreements, the existence of which has been frankly admitted by the lines, are merely parts of
10536 one whole. The evidence shows that the agreements or understandings which exist in many branches of our commerce have been without exception the natural outgrowth of intolerable competitive conditions rather than the result of studied effort on the part of any interest or combination of interests to control particular branches of the trade; and if such agreements had not been reached the co-operation of a number of lines for the development and handling of the trade would have been displaced eventually by an absolute monopoly resulting from the giving way of the weaker lines.

While it is true that certain lines are working in co- 10537
operation and some of the large European steamship companies have an interest in several groups, no world control exists or could exist. Each group operates independently for the development of its own particular field, without regard to the interest that any particular line may have in any group. The only cohesive force in found within each of the several groups and relates only to the business of that group. One line may be in conference with others, for example, in the Far Eastern trade, and at the same time may be attacking one or more of the same group in 10538
another trade such as that of the River Plate. Some of the European members of the New York Conferences have no interest in any European lines, and others, such as Barber and Norton in the River Plate trade, the United States & Australasia Steamship Company in the Australian trade, and the American-Asiatic Steamship Company in the Far Eastern trade, are purely American companies, and have no interest outside their own lines trading to and from New York.

The conference agreements adopted by the steamship 10539
lines engaged in trade between the United States and Foreign countries are substantially the same as those in force in all the other principal maritime nations of the world. They are of various types, but ordinarily they contain the following features, or some of them:

1. An agreement as to sailings.

2. An agreement as to rates of freight.

3. A pooling agreement. 10540

4. A system of deferred rebates to loyal shippers.

The term "Conference," as used by the witnesses who have appeared at the hearings, has several meanings. It has been used to describe meetings held by lines not otherwise co-operating for the purpose of considering matters of mutual interest in relation to the well-being of the trade and improvements in the manner of handling it. Such a

10541 conference exists in the Caribbean service; it deals with administrative subjects, such as the form of bills of lading, dock receipts, methods of receipt and delivery of cargo, etc. This was not inaptly called by one of the members of your Committee a "Schoolmasters' Conference." Another kind of conference deals with rate making and arrangements for mutual convenience of the supply and dispatch of tonnage in trades in which there is not otherwise any community of interest between the participants. The word is also used as synonymous with a part-
10542 nership arrangement under which the carriers engaged in a certain trade each supply a fixed proportion of tonnage, or number of sailings, act as agents for each other in the conduct of the business and divide the profits or losses in agreed proportions.

In every case the word "conference" carries with it the idea of co-operation; and in whatever sense it may be used, it represents the method of conducting business which experience has shown to be the most useful, practical arrangement that can be devised for the economical operation of a service in the best interest of shippers and
10543 shipowners. A "conference" is not an arbitrary arrangement, artificially devised for the management of business; it is the result of an evolution based on long experience gained in the practical operation of a particular trade.

1. *Agreements as to Sailings.*

None of the groups of lines except those engaged in the Trans-Atlantic trade has yet reached an advanced state of development, with vessels of a high class, freight,
10544 passenger and a combination of both, with fixed and regular sailings, and with a convenient and complete system of terminal facilities. The other services are operated for the most part with what one might call "glorified tramps," that is, the most efficient type of cargo vessel, of fair speed and large carrying capacity, but yet of moderate size and cost as compared with the highly developed vessels employed in the Trans-Atlantic services. The conference services in the long-voyage trades are still undeveloped in comparison with the lines serving the

same territory from Europe, in which larger and faster and better types of freight boats are used, and passenger boats also on account of the large emigrant traffic from Europe. Although these services have been sufficient for the demand up to the present time, they must be improved in the future both in speed and regularity of service. 10545

In the now thoroughly established Trans-Atlantic trade, it is not necessary for the lines acting in co-operation to determine or limit sailings in any way. But in new and undeveloped services it is necessary to agree on sailing dates and ports of discharge; for without regularity and frequency of service, American merchants, manufacturers and shippers would be at a decided disadvantage in competition with European merchants who enjoy a more frequent and better developed service from European ports to ports overseas. 10546

Shippers should be able to know with some degree of certainty when their shipments may be made and when delivered to purchasers in distant countries. Under unrestricted competition several ships may sail the same day or the same week for the same port or ports, and, consequently, there may be no other sailing for a considerable period. When lines are working in co-operation they agree not only as to the time of sailing, but as to the ports, thus avoiding the waste involved in several ships calling at ports which require only one and giving an excessive tonnage on one date and a corresponding lack of tonnage at other times. 105 47

It is to be remembered that a large part of the shipments from the United States to foreign countries come from the interior. With regular sailing dates, goods arriving late and missing one steamer will be delayed only a short time and can go forward on the next boat. The loading and delivery of cargoes also is greatly facilitated by co-operation, preventing the accumulation of goods, unnecessary port charges and loss of time. 10548

The result of an agreement as to sailings is to enable shippers to fill their contracts promptly, to build up new business, and to compete successfully with their competitors in Europe.

2. *Agreements as to rates of freight.*

10549 The testimony of merchants and of steamship owners and agents has been uniform to the effect that agreements as to rates are desirable and of advantage to both interests, provided the rates agreed on are not unreasonably high.

The great preponderance of the evidence on this subject before the committee has been to the effect that the freight rates charged by the conference lines have been fair and reasonable, and have been as stable as conditions effecting the freight market would permit. Shipowners
10550 operating line services being dependent for success on the good will of shippers always seek to establish rates which will be satisfactory to shippers and will enable them to compete successfully with foreign merchants who are bidding for trade against the merchants of this country. It has been shown that the rates in many, if not all, the trades, are fixed in competition with the rates of lines trading to the same points from foreign countries and on a parity with those rates as nearly as conditions will permit. The evidence has also shown that nearly all the important foreign trades in which the United States is
10551 interested are subject to competition, either within the several groups themselves or by other regular lines and by tramp ships. The tendency of such competition and the certainty that exaggerated rates would lead to further competition tends to keep the rates of the lines working in co-operation at reasonable figures. No conference is ever immune from attack, and the history of every co-operative service is that it has grown from a single line or from a small number of lines to its present size and condition by the constant aggression and admission of other
10552 competing services. Ocean freight rates on merchandise to or from the United States, whether in conference trades or not, rise or fall with the rates to and from other countries. The trade and shipping conditions of the whole world govern the ocean rates to and from the United States as well as to and from other countries.

Competition in freight rates beyond a very limited point is detrimental to the interests of shippers, especially of small shippers. Competition has never established a reasonable rate nor maintained a stable rate. In every rate

war the object of the competitors is to obtain the business 10553
of the large shippers. The rates offered to such shippers are directly or unconsciously discriminatory, and the business of the smaller shippers suffers. Rate wars tend to the monopolization of trade by the larger shippers. Unless the warring steamship factions come to some agreement the result is more or less of a monopoly on the part of the most powerful carrier engaged in the conflict. An agreement as to rates, on the other hand, insures stability in the cost of transportation and tends to avoid discrimination as between shippers. In time of warfare among the 10554
lines steamship owners are disinclined to make forward contracts for the carriage of merchandise, as they naturally are disinclined to sell their room for the future at a loss. Stable conditions, on the other hand, give shippers fixed rates and room for long forward periods, running for months or a season, or for years ahead. Such arrangements enable the American exporter to compete with his foreign rival who has similar facilities. Neither the large nor the small shipper is ever at the mercy of conference lines if rates advance to a point which may be thought to
be unreasonable. If the rates exceed or even approximate 10555
the chartered rate for tramp steamers, large shippers immediately protect themselves by the employment of tramps for the transportation of their shipments. Small individual shippers, who cannot accumulate merchandise in quantities sufficient to justify the chartering of tramp steamers, are at such times served by chartering brokers, who are always ready, when rates by the regular lines advance to such a point that a profit can be made by chartering, to lay chartered ships on the berth, themselves
accumulating the shipments of numbers of small mer- 10556
chants, who by this means can always protect themselves against oppression.

Although there has been little or no evidence tending to indicate that conference agreements as to rates have caused the rates to be unduly advanced, yet it happens that this inquiry is being made at a time when freight rates in all branches of our trade are abnormally high. If the committee had undertaken the same investigation at almost any time between 1900 and 1910, a very different

10557 state of things would have been brought to light. During that period the supply of tonnage was far in excess of the requirements of trade, and there was keen competition among tramp owners. In consequence, shipbuilding was greatly curtailed. The usual percentage of steamers lost at sea was hardly replaced, and when general business improved throughout the world the demand exceeded the supply. Strikes and labor difficulties at shipyards and in the handling of ships and cargoes in port, the closing of the Dardanelles and the withdrawal of many Italian ships
10558 on account of the Italian-Turkish war have combined to create such a scarcity of freight room that, with the continually increasing demand, the freight market has risen to an unprecedented extent. Prior to 1910 there was in the foreign shipping trades of the United States a period of fierce and chaotic rate-cutting. At times cargoes were carried at such unprofitable rates as $2 a ton to the River Plate, $3 a ton to the Philippines, Chi and Japan, $2.50 a ton to Australia and $4 a ton to S Africa.

During that period the supply o was in ex-
10559 cess of the worlds requirements, erican ship-ping agent was able to induce tr iers to attack the then existing unprotected ..sely organized services. As the trade of the wo. overtook the supply of tonnage these owners became dissatisfied with fighting rates from New York, because they were able to employ their steamers to better advantage elsewhere.

In order to maintain existing services and the position which the lines had attained in their respective trades, some method of co-operation had to be evolved to bring rates into conformity with the changed conditions. For
10560 these reasons American conference line rates, which are now on substantially the same basis as those from Europe show a greater percentage of increase than European rates for the same period. Our increases are from an unnaturally low level of fighting rates, whereas the advances in European rates reflect only the natural increase of improved world trade.

Although ocean rates have advanced materially during the last year, the advance is by no means limited to the foreign trade. In point of fact the rates charged on

the long voyage lines are still very much lower in pro- 10561
portion to the length of the voyage than those charged in the coastwise service of the United States. This will appear from the following table of current coastwise and foreign rates on certain classes of commodities carried in the respective trades.

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RATES PER 100 LBS. FROM NEW YORK TO COASTWISE PORTS COMPARED WITH FOREIGN PORTS.

	Wilmington (550 miles)	Charleston (650 miles)	Savannah (700 miles)	New Orleans (1700 miles)	Galveston (1900 miles)	Argentine Ports (6000 miles)	Cape Town (7000 miles)	Shanghai (12,500 miles)
Dry Goods .....50 cts	57 cts	57 cts	50 cts	75 cts	$1.76 1/2	$1.20	60 cts
Canned Goods ..34 cts	37 cts	15 cts	25 cts	55 cts	.79 1/2	.42	58 cts
Hardware .....40 cts	47 cts	47 cts	50 cts	63 cts	.79 1/2	.42	58 cts
Plows .....40 cts	47 cts	37 cts	51 cts	75 cts	.49 1/2	.42	58 cts
Other Agricultu-rals .....40 cts	47 cts	19 cts	70 cts	75 cts	.80	.55	93 cts
Barrel Oil .....34 cts	37 cts	15 cts	80 cts bbl.	55 cts	.60 1/2	.51	45 cts
Kerosene .....34 cts	37 cts	24 cts	60 cts	55 cts	.36 1/2	.27	58 cts

While the Committee has apparently recognized that 10569
it is now dealing with a period of abnormally high rates throughout the world, yet questions have been asked which indicate a doubt in the minds of some of the members whether the increase in rates has not been out of proportion to the increase in business. For example, Mr. Sickel was asked why it was that, while our imports and exports for the year 1911 increased about seven per cent. over 1910, and those of 1912 exceeded those of 1911 by seventeen per cent., yet freight rates in that period had gone up from one hundred to two hundred per cent. It 10570
may be doubted whether the actual increase throughout the whole range of rates has been so great as indicated, but a very great increase has no doubt taken place. It is not, however, economically sound to assume that increases in rates of freight are proportional to the increases in imports and exports. It may well be, of course, that the increase of exports and imports based upon the value of the goods would not be measured by the same percentage as the increase in the quantities imported and exported. But we leave that point aside.

An increase in the volume of business may easily lead 10571
to a much larger proportional increase in the value of freight space. Let us use Mr. Hardy's illustration of the mule team, and suppose ten mule teams to be working in a certain neighborhood with a steady demand for that number of teams. The teams will then be worth exactly their living wage for a day's work, supply equalling demand. But let an additional job be started in the neighborhood, requiring another mule team, and the value of all the mule teams immediately rises. If twelve new employers require mule teams the market value of all teams 10572
will go still higher. This new value has no relation to the amount of work the teams can do, which presumably will remain the same, but is due entirely to the urgency of the highest bidder for their services. Steamers are as easily moved about as mule teams, and when, as happened in 1910, one country after another started bidding for steamers, a scarcity was created in other countries, which in turn had to bid still more. In this way freight rates may be and are bid up out of all relation to the actual increase in this country's exports or imports. The rise in the rate

10573 was due not only to the increase of this country's exports and imports, but also to the increase of imports and exports of other countries. As one authority has put it, if there is one steamer short of the world's demand there will be good freight rates; if there is one steamer more than the world requires freight rates will go down.

The factor which has been most largely instrumental in raising the freight rates of liners is the great increase in the chartering value of tramps. The great majority of liners may be put into the tramp business, and many of
10574 them are so employed when charters of single steamers for special business are peculiarly attractive. The testimony has shown conclusively that the tramp steamer does control the freight rate on all bulk articles of export and import. The independent testimony of Mr. Barnes, one of the largest grain exporters of this country, clearly establishes this fact.

The question has been asked what protection, if any, the small shipper can secure, who does not ship in quantities large enough to charter a steamer, or who cannot
10575 combine with other shippers to make such a charter practicable. The protection of such shipper is the liners' dependence upon him, just as in every well-organized trade the liners' protection is the recognition by the small shipper of his dependence upon the liner. The present large shippers and importers were formerly men of small operations. It is the constant experience of liners that the small shipper of today becomes the large and powerful shipper of tomorrow; and the line which would neglect or oppress him when weak can hardly expect his support when he becomes strong.

10576 But there is a broader basis for the safeguarding of the small importer in a well-known economic condition. We live in an exporting country. Our exports largely exceed our imports. Exports and imports, as tabulated in terms of dollars and cents, do not, however, tell the whole story. While by far the greater part of the exports are natural or partly manufactured products, such as cotton, resin, grain, oils, &c., and are of relatively low value though occupying large spaces in vessels, the imports are largely made up of high-priced manufactured

goods or luxuries, of small bulk. The result of this 10577
difference is that, while steamers can generally get a full load from this country, most of them have to come here empty or only partly full in order to obtain that load. Even small lots of inward cargo, therefore, are carefully sought out and engaged, as each lot constitutes so much gain to the liner, and attention to the movement of small lots fosters and increases the general trade.

Looking at the case of the small exporter we also find a natural condition of trade operating to keep rates reasonable. With exports as with imports, the con- 10578
sumer pays the freight. This freight cannot be more than the consumer is willing to pay. The steamer's freight rate must, therefore, be such as will enable the American exporter to sell his products in competition with the products of other countries. The liner, which depends largely on the higher class freight for its profit, being regulated as to bulk cargo by the rate for tramp tonnage, would find it destructive of its interests to restrict or ruin the trade in those commodities upon which its greatest profit depends.

Let us give an illustration which may arise in the 10579
course of any business day. An inquiry is received in the United States for fifty locomotives to be delivered in Japan. The shippers advise the steamship agents that there will be sharp competition in the delivery price from Europe and that the established rate would endanger their chances of obtaining the order. At the New York conference meeting such a matter would be discussed, the views of the various manufacturers competing for the order would be considered, and, in order to help American merchants and manufacturers to secure the business and 10580
thus enable the lines to obtain this freight for its steamers, it is found necessary to quote on that special lot, say, five shillings below the usual tariff rate. Such special rate is then given to every merchant who may be competing for this order.

As a matter of policy, it is not to the interest of the steamship lines to make the large shippers still larger, yet it is necessary to reckon with the demands which large shippers are in a position to make. When their

10581 shipments are large enough to justify the chartering of tramp steamers, large shippers are in a position to enforce rates which are generally somewhat below the current charter rates. The class of merchandise of these large shippers is not, however, commonly handled by the small exporter. The large shippers ship their own product, and, being in entire control of it, they often decline to sell their product to small exporters who might desire to trade in it abroad. The class of merchandise shipped by the small exporters is ordinarily of an entirely different na-
10582 ture. It consists of articles of greater value, which can readily pay an increased rate of freight. In asking a higher rate for such products, the attitude of the steamship lines is similar to that of railroads, which are permitted to charge a higher rate for less than carload lots than they do for full carload shipments, and to have classifications based upon the nature and value of the goods shipped, under which they charge higher rates on goods of higher value. As a rule, however, the steamship lines obtain the same rate of freight from all the smaller shipments, and no differential rate is made on
10583 account of differences in value. If the large shipments referred to should not be secured, the smaller shippers would have to pay an enhanced rate of freight and would also suffer inconvenience from the necessary curtailment of sailings which would result from decreased shipments.

If rates should be unduly advanced, the foreign buyer, who pays the freight, would decline to purchase our products. The safety valve against the charging of exorbitant freight rates is in reality the lines' own interest to do everything in their power to foster trade, and to do noth-
10584 ing which would have a tendency to restrain it. While at the present time all steamship lines have more cargo offered than they can readily accommodate, the situation has been entirely different in the past and doubtless conditions will again arise under which, even with large shipments of bulk articles, the lines will not be able to procure full cargoes, and this is the best possible guaranty that nothing will be done which has a tendency to hinder any kind of business, whether large or small.

3. *Pooling.* 10585

The word "pool" has taken on an unpopular sense because of its association with practices that have been found to be wrong in relation to land transportation and in the distribution of manufactured products. In connection with the operation of a steamship conference, pooling is nothing more than an equilization of expenses and earnings by the component members of a conference, with the object that the conference shall furnish all the facilities that are demanded for the transportation both of profitable and 10586
unprofitable cargo and for the accommodation of the least profitable as well as the most profitable ports. Under its operations regularity of service is maintained, whether full cargoes are offered or not, whether the cargoes offering at any particular time be of a more or less profitable kind, and whether the going rates as embodied in the tariff be profitable as compared with the general market value of tonnage or not; it enables the conferees to give service within the area of the conference operations at small or unimportant ports, often at a loss, which would have to be neglected unless such loss could be equalized by being 10587
brought into a division of the earnings with the other vessels which serve the more important ports. The conferees, in substance and effect, become partners for the purpose of supplying tonnage for the particular trade in which the pool operates, and they divide their earnings and losses in proportion to the capital represented by tonnage which is furnished to supply the needs of the trade.

The evidence has shown that a better, more stable and more regular service, attended by less fluctuation in freight rates, can be and is afforded by a conference 10588
operating under a pool than can possibly be supplied without a pool. Especially is this true in the long-voyage trades. Unless the steamers of all lines serving a particular trade are of equal type, speed and equipment, equal rates cannot be maintained by all, as shippers will not give their high-classed merchandise, which is the better paying cargo, to the inferior boats. The less desirable boats could obtain only the less desirable and less remunerative cargo. By means of pooling the weaker line

10589 is compensated for its failure to obtain a fair share of the more remunerative goods, and, by living alongside the strong line, adds to the total of the shipping facilities which the trade may reasonably require.

Steamers do not always load the same class of cargo, nor do they go to the same ports or follow the same routes. To the Far East, for instance, some ships take the route via the Cape of Good Hope, others go by Suez. When the Panama Canal is opened vessels bound for Japan and ports north of Shanghai will probably go
10590 through the Canal, while vessels bound for ports south of Shanghai will still follow the Suez route.

Nor do all vessels go to the same ports. On most of the routes there are a number of ports of destination. An owner attempting to serve them all would not only enormously increase his expenses, but would also cause dissatisfaction to the receivers at the later ports of discharge because of the undue length of the voyage. In order to compete with Europe at European rates several services must be run on each route. The traffic must be handled not only in the most economical, but also in the
10591 quickest manner possible. Therefore the tendency would be for an individual line to avoid calling at the less important ports in order to obviate loss of time, extra steaming and additional port charges. If, however, a line knows that it will be compensated by its associated lines it will serve the undesirable ports of call as frequently as the trade may reasonably require. Without pooling this country would be without communication with many comparatively unimportant ports throughout the world, the business of which nevertheless amounts in the aggre-
10592 gate to a large sum in the course of the year.

This is one of the most important matters for consideration in connection with pooling, for anything which might tend to disturb the existing arrangements for the service of so many ports would unquestionably cause inconvenience and loss to shippers and receivers. Unless the different owners are permitted to equalize the results of these various voyages each would have to resort to the system of visiting all ports or but a few ports. In either event dissatisfaction would result; in the one case from

enhanced freight rates, which would be necessary in order 10593
to enable the owner to pay the expenses of a large number of ports, or from failure to serve many of the ports at all. Any system which left the trade in such a dilemma would be equally detrimental to shippers and shipowners.

The nature of the business to be taken care of in the long-voyage trades requires pooling for its economical treatment. Our large manufacturers and exporters have extensive outstanding contracts for the supply of rails, locomotives, car material, bridge work, oil, &c., to various ports. No one service alone could possibly handle such 10594
products. Shippers are often obliged at stated periods to make large shipments of a kind of material which would be quite unsuitable for a steamer, such as rails, on which the earnings would be much below those of succeeding steamers which would carry other portions of construction material covered by the same contract the rates for which would be far more remunerative. Only a joint service which could equalize the earnings under the whole contract could carry the materials covered by these large contracts without charging freight rates so prohibitive as to deprive the American manufacturer of the opportunity of 10595
securing the contracts in competition with foreign manufacturers. So the Conference Lines are able to maintain their schedules and provide for the export trade even at a loss to the individual ship. An instance has occurred during the currency of these hearings in which an extra steamer had to be chartered to supply the needs of certain shippers from the Philippines, resulting in a loss to the pool of about $15,000.

In steamship trades in which owners jointly engage in supplying a large service the pool acts merely as an 10596
equalizer of expenses and receipts; and it is absolutely essential in some trades for the efficient and economical operation of the business. Without it the trade could not possibly be served with equal efficiency, regularity or economy. The question, therefore, whether pooling in steamship trades will be permitted or not is really not a question whether a pool is a good thing or a bad thing in itself, but whether a certain quality of steamship service is desired in certain trades. While a conference may exist

10597 without pooling, yet it is beyond all dispute that certain trades cannot be conducted economically, regularly and efficiently, nor with stability of rates, without pooling.

4. *Rebates to Loyal Shippers.*

The system of deferred rebates to loyal shippers has none of the evils of the secret rebate which was formerly employed by railroads. Rebates, which exist in certain trades from distant countries to the United States, are
10598 open and public. In the coffee trade from Brazil, for instances, circulars are printed by the lines and widely distributed among shippers of coffee in the Brazilian ports offering a discount or allowance on the freight to any merchant who will confine his shipments for a fixed period to the Conference Lines. Any merchant may obtain the benefit of this published allowance by complying with the terms of the circulars. Under this system large and small shippers are treated absolutely alike.

The alternative to the deferred rebate system in trades where the return cargoes are insufficient to fill the ships
10599 required for the outward voyages, is the long term contract. It is universally recognized that one or the other of these methods of insuring a continued patronage of the regular lines is necessary to justify the operation of such lines. To the shippers the great advantage of the rebate system has been the maintenance of steady rates of freight free from any serious fluctuations. Under that system the merchant signs no agreement binding him for the future. He is only bound to the extent of his accrued rebate. Except for this measurable sacrifice he is a free
10600 agent and can always avail himself of any opposition that offers him advantages sufficient to compensate him for his loss of rebates and is also in a position to obtain from the Conference Lines the advantage of any fall in current freight rates during the period covered by the rebate agreement. Under a contract for the shipment of a fixed quantity, or for all shipments made within a fixed period of time, the merchant fetters his future action and deprives himself of all opportunity to avail of lower rates which may be offered in or out of the Conference during the

period that would otherwise be covered by his agreement. 10601

The attitude of the merchants themselves to rebates is indicated in an interesting way by the recent action of the principal coffee shippers of Brazil, who on the 6th of November, 1912, petitioned the Brazilian Government to suspend the operation of a regulation which was about to be put into effect prohibiting the use of the rebate system. The petition set forth the advantages to merchants of the system as follows:

(1.) Constancy and equality of freights whatever the quantity of cargo shipped may be. 10602

(2.) Arrangement and maintenance of regular sailings.

(3.) Running of steamships of the first class and of good speed, thus offering at all times sufficient tonnage for exporters independently of the fluctuation of the market.

Upon this petition the Brazilian Government suspended the regulation and authorized the continuance of the rebate system on exports from Brazil.

See Diario Official of Rio. 10603

Among the advantages resulting from the system of conference agreements are the following:

a. The institution and maintenance of regular and frequent sailings by which the desire of merchants to forward their goods at regular and frequent intervals is satisfied.

b. The provision of steamers of a higher class and speed than the ordinary tramp vessels, thus permitting 10604 merchants to obtain the most favorable rates of insurance on their shipments and to make deliveries in accordance with their advance contracts.

c. The maintenance of rates from the United States at about the level of rates charged by lines trading from foreign countries to the ports served by the Conference steamers, thus enabling American merchants to compete with merchants of other countries.

10605 *d.* The maintenance of uniform rates of freight to all shippers, large and small alike.

e. The provision of ample facilities and tonnage, so that merchants can rely upon the forwarding and delivery of goods in respect of which they may have made, or may wish to make, advance contracts.

f. The establishment of economies in the delivery of cargo at out-ports, or ports of minor importance, in which
10606 there are new or growing trades, thereby effecting savings in the cost of distribution.

g. The provision of adequate terminal facilities which enable merchants to accumulate their shipments on the piers in advance of the actual loading of vessels, thereby saving the expense of storage in warehouses or lighters.

As the result of a protracted inquiry by a Royal Commission in England, a few years ago, it was found that similar advantages had resulted to British exporters from the operations of Conferences. We adopt as our own the
10607 reasoning of the report of that commission, which appears in the proceedings of this committee at pages 377 to 389, and bespeak for it the careful consideration of the committee. The experience of the world has not shown any other means by which corresponding advantages to shippers have been or can be obtained.

Individual cases of dissatisfaction with existing arrangements will always be found to exist, but it is an undeniable fact that the great mass of shippers are reasonably satisfied with the methods under which the world's
10608 carrying trades are conducted. If they were not satisfied the trades would not be conducted as they are, but different methods would have been required, discovered and put into operation. Until experience discovers some new or better method, it is but natural that shipowners should insist that the method under which the carrying trades of the world are now conducted are reasonable and practically equitable and just. It would be too much to require that they should be so perfect as to be beyond the reach of possible criticism or complaint.

In considering the reasonableness of conferences for 10609
the management and operation of steamship trades, the striking differences between the conditions incident to the operation of those trades and the business of railroads must be kept clearly in mind. Railroads obtain their franchises from the State, which permits them to lay their tracks along the lines of existing or potential trade centers, and to acquire rights of way by the exercise of eminent domain. Without these special privileges a railroad cannot be built. A road which is built in the exercise of such franchises becomes in duty bound to 10610
maintain a regular and continuous service, as efficient as the needs of the trade along the line require and the rewards of the business will permit. It is but just that companies thus organized, enjoying property rights, acquired often at the expense of the State, and operating by virtue of special privileges, should be held to the performance of the functions for which they were created, and shall not so use their privileges as to cause prejudice to the public. They are public utilities and must expect public regulation.

The conditions under which transportation by sea is 10611
conducted are totally different. Ships are not fixtures in any trade, and are not constrained by any fixed line or route. They have no public aid, no franchises, and for the most part no advantages of local trade between the termini of their voyages. They owe no duty to the state to maintain a service, or to serve the public. Their enterprises are of a private nature. They may come and go by whatever route or in whatever direction they please. Their only incentive to engage in any particular trade is to develop that trade to such a point that it will yield a 10612
profit which will justify a regular and continuous service. But if conditions are imposed which embarrass a particular trade or render it less profitable, it is but natural that the routes of ships should be changed to trades where commerce is unrestrained and yields the greatest gains.

The ocean trade, except for restricted coastwise trade in some countries, is free to all comers. According to the most recent reports of Lloyd's Register of Shipping, the

10613 oversea commerce of the world is conducted by over 25,000 steamers, having a gross tonnage of 43,954,000 tons, which are owned by approximately 4,200 different firms and companies. Of this great body of tonnage only about 1,555 steamers, owned by approximately 108 different companies, are engaged in regular line service in the oversea trades. The remainder constitutes the great mass of free tramp tonnage, operating entirely under the law of supply and demand, and regulating the ocean freight rates for everybody by the charges which they fix for the
10614 transportation of the great mass of the world's staple products. It is manifest that the relatively few regular lines, owning but a small proportion of the world's tonnage, could not, if they would, control the operations of the great number of tramp shipowners and the vast body of the tramp tonnage, or that any method of combination could be devised by which such owners of different nationalities, situated all over the world, could be brought into effective combination.

The suggestion that the tramps are controlled by the
10615 regular lines is without foundation. While at times the regular lines have to charter tramps to take care of their surplus cargo, and thus give the merchants and exporters of the United States the benefit of facilities which they would otherwise lack, not the slighest evidence has been produced at the hearings, and none could be produced, to show that the regular lines could possibly control the tramp tonnage.

The fear of any general or large combination by means of conferences is thus seen to be without real foundation; while the economic and commercial necessity for them in
10616 the regular line services has been demonstrated by experience and has been found of advantage to ship-owners and shippers alike.

A fallacy which should be exposed is the contention that the foreign lines are seeking to throttle American export trade. If this were so the lines trading between the United States and ports in Brazil, for instance, would not establish the same rates of freight as exist between European ports and the ports mentioned.

Nor is there any better foundation for the notion that

the foreign lines are crowding out American shipping. 10617
The navigation laws of the United States have probably proved a deterrent to the building up of an American Merchant Marine, but the United States offers so many opportunities for a higher return on capital than is afforded by ship-owning, that it is not surprising that capital has been unwilling to embark in the shipping business.

If American capital were content with a return such as some of the English lines have earned in the last decade it would, perhaps, invest in ships. The testimony 10618
shows that the Leyland Line, for instance, did not pay a dividend on its preferred or common shares between the years 1902 and 1912.

Nor is there any foundation for the suggestion that the foreign lines favor their own merchants. In most of the long voyage trades from ports in the United States the tonnage is supplied by British and German lines, which also maintain services from their own countries to the same ports of destination overseas. If such lines wished to favor the merchants of their own nations it is
obvious that they would not engage at all in furnishing 10619
tonnage from the United States by means of which American merchants could compete with the merchants of their own nations.

We have now dealt at considerable length with the economic principles underlying the operation of the steamship business through the medium of conferences and their attendant incidents. Emphasis should be laid on the fact that these principles are by no means limited to the lines trading to and from the United States, but are
of universal application throughout the shipping world. 10620

The evidence brought out at the hearings must have convinced your Committee of the impracticability of applying to ocean carriers engaged in the foreign trade statutory provisions similar to those of the Interstate Commerce Act. The nature of the steamship business is so different from that of railways that it would be injurious, not only to shipowners, but to shippers and consignees if any limitation should be placed upon the absolute freedom of carriers to change their freight rates as the con-

10621 ditions of the freight market reasonably required. Ocean freight rates vary not merely from month to month, but from day to day and from hour to hour, especially with reference to the great staples which are traded in on the Exchanges. The difference of a fraction of a cent in the freight rate may mean the loss of a contract to a merchant or manufacturer at an interior point of the United States who is competing with manufacturers and merchants in other countries. In the development of new countries the American manufacturer of steel rails, loco-
10622 motives, car material, bridge work, etc., is competing with English and German manufacturers. The American corn merchant is competing not only with merchants in this country, but with merchants in Canada, Russia, Australia and Argentina. Unless the carriers are free to quote to such merchants freight rates which will enable them to compete successfully with the business of the merchants of other countries the lines will suffer serious detriment.

We are firmly convinced that if we are to maintain our commanding position as an export country and to develop our trade still further in new and distant countries,
10623 methods of co-operation substantially similar to those now in existence, are essential.

The right to enter into Conferences which regulate sailings, establish reasonable, stable and uniform rates, and equalize profits and losses, through the medium of pooling, is essential to the successful and efficient conduct of the steamship business. We believe also that in certain trades, especially those not yet fully developed, the deferred rebate system is preferable to the alternative system of long time contracts. While these conferences
10624 undoubtedly limit competition among their members, they have not restricted our foreign trade and commerce, but have enormously developed it, have resulted in the maintenance of reasonable rates, and have no tendency to monopoly. Unfair methods, whether of combination or competition, are illegal. But the methods adopted by the steamship lines, which have been stated with candor at the public hearings held by your Committee, merit the approval of your Committee, and should not be curtailed by any restrictive legislation. If they should be curtailed

by such legislation, then the efficiency and regularity of the services and the uniformity of rates to large and small shippers alike will to that extent be unfavorably affected. 10625

Respectfully,

PAUL GOTTHEIL, Chairman.
P. A. S. FRANKLIN,
W. G. SICKEL,
HERBERT BARBER,
WILLIAM BOYD,
A. EMILIUS OUTERBRIDGE,
Committee. 10626

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